

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7521

BILL NUMBER: HB 1814

NOTE PREPARED: May 7, 2003

BILL AMENDED: Mar 31, 2003

SUBJECT: Property tax matters.

FIRST AUTHOR: Rep. Crawford

FIRST SPONSOR: Sen. Borst

BILL STATUS: Enrolled

FUNDS AFFECTED: X

**GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill provides that the administrative orders and procedures act does not apply to the Department of Local Government Finance (DLGF). It removes the DLGF and the Indiana Board of Tax Review from the review process for economic revitalization area deductions and enterprise zone inventory credits. The bill requires the county assessor to conduct equalization among townships in the year of a general reassessment.

This bill provides that certain DLGF final determinations are appealable to the Indiana Tax Court. It requires a township trustee to estimate the amount needed for poor relief and the township board to adopt with the township budget a tax rate sufficient to meet estimated cost of poor relief. The bill permits the DLGF to extend certain deadlines for tax increment replacement purposes. The bill also provides that the procedure for correction of assessment errors does not apply to a utility. Instead, the bill requires a public utility company to correct an error made by the company on the company's personal property statement by filing an amended statement within six months of the due date of the statement.

The bill eliminates the requirements for: (1) the DLGF to certify fixed property utility assessments to the counties; (2) a political subdivision to certify to the county auditor a transfer of money from one major budget classification to another within a department; (3) the DLGF to review per diem for certain assessor training; and (4) the Division of Data Analysis to review federal income tax returns.

This bill adjusts a requirement for the county auditor to certify certain information. It limits the time between initiation of certain financings and DLGF approval. The bill validates certain certifications made by a county auditor after a prescribed date. This bill also waives the filing deadline for the property tax exemption for fraternity property owned by a nonprofit corporation as to property taxes due in certain years and it makes technical changes.

Effective Date: January 1, 2000 (Retroactive); July 1, 2003.

Explanation of State Expenditures: *Appeal Procedures:* Under current law, the Department of Local Government Finance is subject to the Administrative Orders and Procedures statute. This law contains minimum procedural rights and imposes minimum procedural duties that are applicable to appeals of the agency's determinations and orders. According to current law, the DLGF's determinations and orders are final. There is some question as to what entity, if any, these determinations and orders may be appealed.

This bill would add the DLGF to the list of state agencies that are not governed by the Administrative Orders and Procedures statute. Instead, the bill would make all of the DLGF's determinations and orders appealable to the Indiana Tax Court and set the time limit for filing each appeal. The DLGF's determinations and orders regarding the following actions would be included under the new appeal procedure:

- Certification of local budgets, property tax levies, and tax rates;
- Establishment of a cumulative fund;
- Establishment of a library capital projects fund;
- Establishment of a school capital projects fund;
- Approval of maximum levy appeals;
- Approval of debt issues or leases;
- Approval of township emergency loans;
- Approval of township fire loans;
- Approval of bridge leases; and
- Approval of county hospital financing.

ERA & EZ: Under current law, after ERA deduction and EZ credit applications are filed with the county auditor they are reviewed by the DLGF and the allowable deductions and credits are certified back to the county auditor. Under this proposal, county auditors would be responsible for verifying the taxpayers' applications and claims. The DLGF would no longer be involved in the day to day administration of these tax incentives. The DLGF would, however, still be available to advise counties as needed. The elimination of DLGF's handling of these claims would cause a reduction of state administrative expenses. The DLGF would be able to redirect the resources currently used for this function to other areas.

Utility Assessments: Under current law, the DLGF must certify both distributable property values and fixed property values for utilities to the county assessor and county auditor. This bill would eliminate the certification of fixed property values. Distributable property is assessed by the DLGF but fixed property is assessed locally, so the county assessor would already have the fixed property valuation. This provision has no fiscal impact.

Explanation of State Revenues:

Explanation of Local Expenditures: *ERA & EZ:* County auditor offices would save the expense of forwarding all ERA and EZ claims and related documents to the DLGF. However, the counties could have additional administrative expenses in processing ERA and EZ claim forms. Funding for additional expenses, if any, would come from current resources.

Poor Relief: Under current law, a taxing unit must estimate its budget, rate and levy and then it must publish the estimated budget, estimated maximum permissible levy, current and proposed fund levies, and excess levy appeals, if any. In addition, this bill would require (1) the township trustee to estimate a poor relief budget and (2) the township board to adopt a sufficient poor relief tax rate along with the township budget. The calculation and adoption of the poor relief rate would not add to local expenses since the township

trustee must currently estimate the poor relief levy.

Budget Transfers: Local taxing units may currently transfer money from one budget class to another under certain conditions and must certify the transfer to the county auditor. This bill would remove the requirement that the taxing unit certify the transfer to the county auditor. The major budget classes are (1) Personal Services; (2) Supplies; (3) Other Services & Charges; and (4) Capital Outlay. This provision has no fiscal impact.

Assessor Per Diem: Under current law, a new assessing official who attends a required training session is to be paid a per diem and mileage allowance by the county. In addition, the DLGF may approve a per diem and the county may approve a mileage allowance for a person who attends a training session between the time that they were first elected and the time that they first take office. This bill would automatically grant the per diem and mileage allowance to the assessing official-elect. There could be a very slight increase in county expenditures in a case where a county would not have otherwise approved the mileage allowance.

Bonded Indebtedness / Lease Rentals: A local taxing unit or school corporation must currently obtain approval from the DLGF in order to incur debt or execute a lease with a term of at least five years. This bill would require the unit to obtain this approval within two years of the first publication of the unit's intention to issue debt or enter into a lease unless the unit demonstrates that a longer period is necessary in light of the unit's facts and circumstances.

Explanation of Local Revenues: *ERA & EZ:* County auditors must remove the value of ERA and EZ verified claims from the tax base in order to certify assessed values and calculate tax rates. Since county auditors would control ERA and EZ claims under this bill, it is likely that counties would have the information regarding the total amount of ERA deductions and EZ credits in a more timely fashion than the DLGF could provide that information.

Equalization: Under current law, the county assessor must examine the assessments of each property class in each township for the purpose of equalization before July 1st in the year that a reassessment will commence. This bill would require the examination to occur after March 1st of the year a reassessment takes effect. Moving the examination date to the reassessment effective year would allow any equalization adjustments that are made to impact assessments in the first year that the new values are applied.

Utility Assessments: Currently, Utility companies file a statement with the DLGF and the township and county assessor that describes the company's personal property located in each township. The DLGF then must prepare a tentative assessment of the utility's *distributable* personal property based on the taxpayer's statement. A utility may file an objection to the tentative assessment of *distributable property* with the DLGF within 10 days of receiving the assessment notice and request a hearing. If the utility objects to the tentative assessment, it may also appeal the final assessment within 45 days of its receipt.

In the event of a taxpayer reporting error, this bill would prohibit the utility company from filing a petition to correct errors with the county auditor. Instead, the utility company could seek relief from their *distributable property* assessment only by filing an objection to the tentative assessment as described above. The utility would be permitted to file an amended statement of *fixed property* with local assessing officials for up to six months after the initial due date of the statement.

There is some question as to whether utilities may use a correction of error petition under current law. A petition to correct errors may be filed at any time. Non-utility business taxpayers who file personal property

tax returns are currently prohibited from filing a petition to correct errors and may instead file an amended property tax return within six months of the filing deadline of the original return.

Auditor's Statement: Current law requires each county auditor to send a certified statement to each taxing unit in the county each year by August 1st. The statement must contain various assessed value data and an estimate of tax distributions. This provision would validate an auditor's 2001 statement for that was sent after August 1, 2001.

Property Tax Exemption: This provision would retroactively grant a property tax exemption to a student fraternity at Indiana University that failed to timely file its exemption claim for taxes paid in 2001 and 2002. The fraternity paid a total of approximately \$59,000 in property tax for these two years. Allowance of the exemption would result in the availability of a refund of the \$59,000 paid by the fraternity. Property tax refunds reduce the proceeds of current year property taxes that are distributed to local civil taxing units and schools.

State Agencies Affected: Department of Local Government Finance; Indiana Board of Tax Review.

Local Agencies Affected: Township assessors; County assessors; County auditors; Urban enterprise associations; and ERA designating bodies.

Information Sources: Beth Henkel, Commissioner, Department of Local Government Finance, (232-3777).

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